

UNITED STATES PATENT AND TRADEMARK OFFICE

MAILED

MAR 25 2008

U.S. PATENT AND TRADEMARK OFFICE  
BOARD OF PATENT APPEALS  
AND INTERFERENCES

BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

Ex parte J. TRACY WEED, CHRISTOPHE PIERRAT,  
YAGYENSH (BUNO) PATI and ATUL SHARAN

Application 09/752,809

ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was electronically received at the Board of Patent Appeals and Interferences on February 21, 2008. A review of the application has revealed that the application is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the examiner. The matter requiring attention prior to docketing is identified below.

On January 15, 2008, the Examiner mailed a communication acknowledging the Reply Brief filed on October 2, 2007. The Examiner's communication included further comments responding to a new issue raised in the Reply Brief.

According to 37 CFR 41.43:

Examiner's response to reply brief.

(a)(1) After receipt of a reply brief in compliance with § 41.41, the primary examiner must acknowledge receipt and entry of the reply brief. In addition, the primary examiner may withdraw the final rejection and reopen prosecution or may furnish a supplemental examiner's answer responding to any new issue raised in the reply brief.

In addition, MPEP § 1207.05 states that “[a]ll Supplemental Examiner's Answers are required to obtain approval of the Technology Center Director or his/her designee.”

The Examiner's communication constitutes a Supplemental Examiner's Answer and requires the signature of the Technology Center Director or his/her designee.

Accordingly, it is

**ORDERED** that the application is returned to the Examiner for the following:

1) to obtain the signature of the Technology Center Director or his/her designee approving the Examiner's communication of January 15, 2008;

2) to notify Appellant of such approval; and  
3) for such further action as may be appropriate, consistent with  
USPTO policy and practice.

BOARD OF PATENT APPEALS  
AND INTERFERENCES

By: 

DALE M. SHAW  
Chief Appeals Administrator  
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DMS/gjh

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